

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
SK SHIPPING (SINGAPORE) PTE LTD.,:
:
Plaintiff, :
: 08 Civ. 5670 (BSJ)
v. : Order
:
:
PROJECTOR SA, PROJECTOR ASIA PTE LTD., :
PROJECTOR SERVICES LIMITED, :
:
Defendants. :
-----x**BARBARA S. JONES**
UNITED STATES DISTRICT JUDGE

On July 10, 2008, the Honorable Laura Taylor Swain, acting as Part 1 Judge for this district, found that the conditions set forth in Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure appeared to exist in this action and thus granted Plaintiff's request for process of maritime attachment and garnishment. On October 16, 2009, the Second Circuit Court of Appeals issued a decision holding that electronic funds transfers ("EFTs") "are neither the property of the originator nor the beneficiary while briefly in the possession of an intermediary bank" and thus "cannot be subject to attachment under Rule B." Shipping Corp. of India Ltd. v. Jaldhi Overseas Pte Ltd., 585 F.3d 58, 71 (2d Cir. 2009). Shortly thereafter, the Second Circuit ruled that the holding in Jaldhi applied retroactively to attachments that had already been granted. See Hawknet, Ltd. v. Overseas

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Shipping Agencies, 587 F.3d 127, 130 (2d Cir. 2009), modified Hawknet, Ltd v. Overseas Shipping Agencies, No. 09-2128-cv (2d Cir. Dec 22, 2009).

On December 10, 2009, Defendants Projector SA, Projector Asia Pte Ltd., and Projector Services Limited (collectively, "Defendants") filed a letter application requesting vacatur of the maritime attachment previously issued in this action in light of the rule announced in Jaldhi. On December 16, 2009, Plaintiff SK Shipping (Singapore) Pte Ltd. ("Plaintiff") filed its response to Defendants' request. Plaintiff opposed vacatur on the basis of two claims: (1) that this Court is obliged to apply New York law rather than Second Circuit precedent on the issue of the attachability of EFTs, and (2) that Hawknet was incorrectly decided and would soon be reversed by an en banc sitting of the Second Circuit.

Plaintiff's arguments are unavailing. Both Jaldhi and Hawknet are good law, and are applicable to this case despite Plaintiff's claims to the contrary. Plaintiff has not alleged that Defendants have any property interest in this district other than Defendants' supposed interest in EFTs briefly in the possession of U.S. intermediary banks. Therefore, Plaintiff has failed to demonstrate cause for the continued attachment of funds that are not, under the law of this Circuit, Defendants' property.

Accordingly, in light of the rules announced in Jaldhi and Hawnet that EFTs are not property attachable under Rule B, this Court hereby vacates the July 10, 2008 Order of Attachment and orders the funds attached pursuant to this Order released immediately.

In the absence of any other basis for personal jurisdiction in this case, the above-captioned action is hereby DISMISSED. The Clerk of the Court is directed to close the case.

SO ORDERED:



BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
December 23, 2009